

**SEMINOLE COUNTY GOVERNMENT
AGENDA MEMORANDUM**

SUBJECT: Flightline of Sanford, Inc.

DEPARTMENT: County Attorney's Office

DIVISION: Litigation

AUTHORIZED BY: Lola Pfeil

CONTACT: Jackie Royal

EXT: 7256

MOTION/RECOMMENDATION:

A business damage claim has been filed by Flightline of Sanford, Inc. relating to Parcel Nos. 103/703 on the County Road 15 project. The owners of Parcel Nos. 103/703 are Winston and Camini Singh. Flightline of Sanford, Inc. operates a business on the site and has claimed \$346,760.00 in damages exclusive of statutory interest, attorney's fees, and costs reimbursement up to the amount of the claim filed. Request authorization to make a counteroffer based on the report of the County's business damage expert. Judge Simmons

District 5 Brenda Carey

BACKGROUND:

See attached.

ATTACHMENTS:

1. Flightline of Sanford, Inc.

Additionally Reviewed By: No additional reviews



**COUNTY ATTORNEY'S OFFICE
MEMORANDUM**

To: Board of County Commissioners

Through: Matthew G. Minter, Deputy County Attorney *Matthew G. Minter*

From: David G. Shields, Assistant County Attorney *DGS*
Ext. 5736

Concur: Pam Hastings, Administrative Manager/Public Works Department *P. Hastings*
David V. Nichols, P.E., Principal Engineer/Engineering Division *D. Nichols* 6-29-07

Date: June 25, 2007

Subject: Authorization to Respond to Business Damage Claim
County Road 15
Parcel Nos. 103/703
Property owners: Winston and Camini Singh
Business Tenant: Flightline of Sanford, Inc.
Seminole County v. Sobik's of Airport Blvd., Inc., et al
Case No. 2007-CA-826-13-K

This Memorandum requests authorization by the Board of County Commissioners ("BCC") to respond to the business damage claim of Flightline of Sanford, Inc.'s ("Flightline") on County Road 15. Flightline is a business tenant on Parcel Nos. 103/703 and conducts a hobby shop business. By statute, the County is required to accept or reject the claim or submit a counteroffer within 120 days after receipt of the claim. Flightline made its business damage claim of \$346,768.00 exclusive of statutory interest, attorney's fees and costs reimbursement on April 13, 2007. The County's response is due by August 10, 2007.

I PROPERTY

A. Location Data

The subject property is located at the east side of County Road 15 (Monroe Road) north of State Road 46 in a portion of unincorporated Seminole County. A location map is attached as Exhibit A and a parcel sketch as Exhibit B.

B. Street Address

The street address is 125 Monroe Road, Sanford, FL.

C. Description

The parent tract consists of 14,007 square feet and is improved with a hobby shop.

II AUTHORITY TO ACQUIRE

The BCC adopted Resolution No. 2006-R-114 on May 9, 2006, authorizing the acquisition of Parcel Nos. 103/703 and finding that the County Road 15 is necessary, serves a public purpose and is in the best interests of the citizens of Seminole County. The Order of Take occurred on May 25, 2007, with title vesting in Seminole County on June 5, 2007, the date of the good faith deposit.

III ACQUISITION/REMAINDER

The proposed acquisition consists of 1,492 square feet and is a rectangle shaped parcel off the subject's frontage on County Road 15. The temporary construction easement (TCE) contains 295 square feet and is also rectangular and will be used to blend the new right-of-way with the remainder property.

IV APPRAISED VALUES

The County's initial appraised value of Parcel Nos. 103/703 was \$144,000.00 (\$142,300.00 for the fee and \$1,700.00 for the TCE). The County's appraisal was prepared by Florida Realty Analysts, Inc., and was approved by the County's MAI designated staff appraiser. The appraisal was updated for the order of taking hearing and the value did not change. The appraisal report only appraises the land, improvements, and possible severance damages. The appraisal report does not encompass business damages. The County has retained a separate expert, a certified public accountant, to evaluate Flightline's business damage claim.

Neither Flightline nor the owners have yet provided any appraisal for the land and improvements.

V BUSINESS DAMAGES

At the time of the taking, Flightline's business had been in operation since 2001, and it therefore qualifies for business damages.

A. County's Business Damage Report

The County has retained a certified public accountant as its expert on the business damage claim. The expert is examining supporting documents provided by Flightline with the claim and additional documents have been requested from Flightline. Therefore, the expert's analysis is not complete as of the date of this memorandum, but it is expected to be completed by the July 24, 2007 BCC meeting.

B. Tenant's Business Damage Report

The tenant's business damage report was prepared by Morgenstern Phifer & Messina and opined business damages at totaling \$346,768.00. The business damages report claims a complete loss of the business as a result of the taking.

VII ATTORNEY FEES

Attorney fees for business damage claims are based on the difference between the final judgment or settlement on the claim and the amount of the County's initial counteroffer. If there is no timely counteroffer within 120 days of the offer, the counteroffer is deemed to be zero dollars. The same percentage attorney fee schedule is applied to this difference as is applied to the monetary benefits obtained as to land, improvements and damages. Therefore, it is important for the expert to review the claim and any and all supporting documents and recommend an appropriate response so as to minimize any claim for attorney fees.

VIII RATIONALE AND COST CONTROL

This case is in the early stages. The owners and Flightline have yet to provide a land appraisal. However, the Florida Statutes force the County to respond to the business damage claim quickly or risk significant additional exposure for attorney fees. This memorandum is intended only to address the statutory requirement for responding to the business damage claim and protect the County on the matter of attorney fees.

VIII RECOMMENDATION

County staff recommends that the BCC authorize the County Attorney's Office to make a counteroffer in response to Flightline's business damage claim in an amount to be based on the report of the County's business damage expert but not to exceed the demand. This amount will cover only business damages and is to be exclusive of statutory interest, statutory attorney's fees, cost reimbursements and any other compensation or damage which might be due Flightline.

DGS/dre

Attachments

Exhibit A – Location map

Exhibit B – Parcel Sketch

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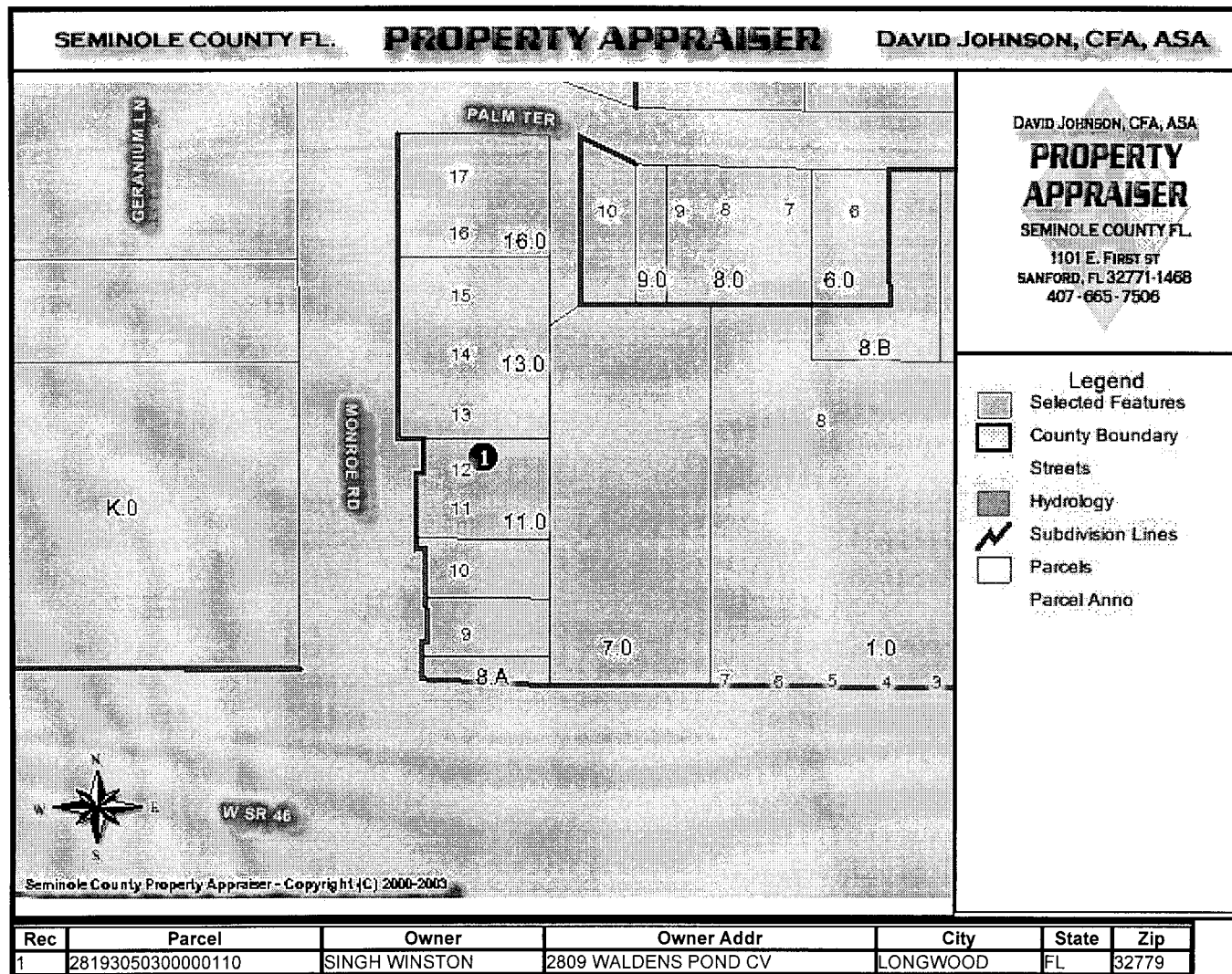
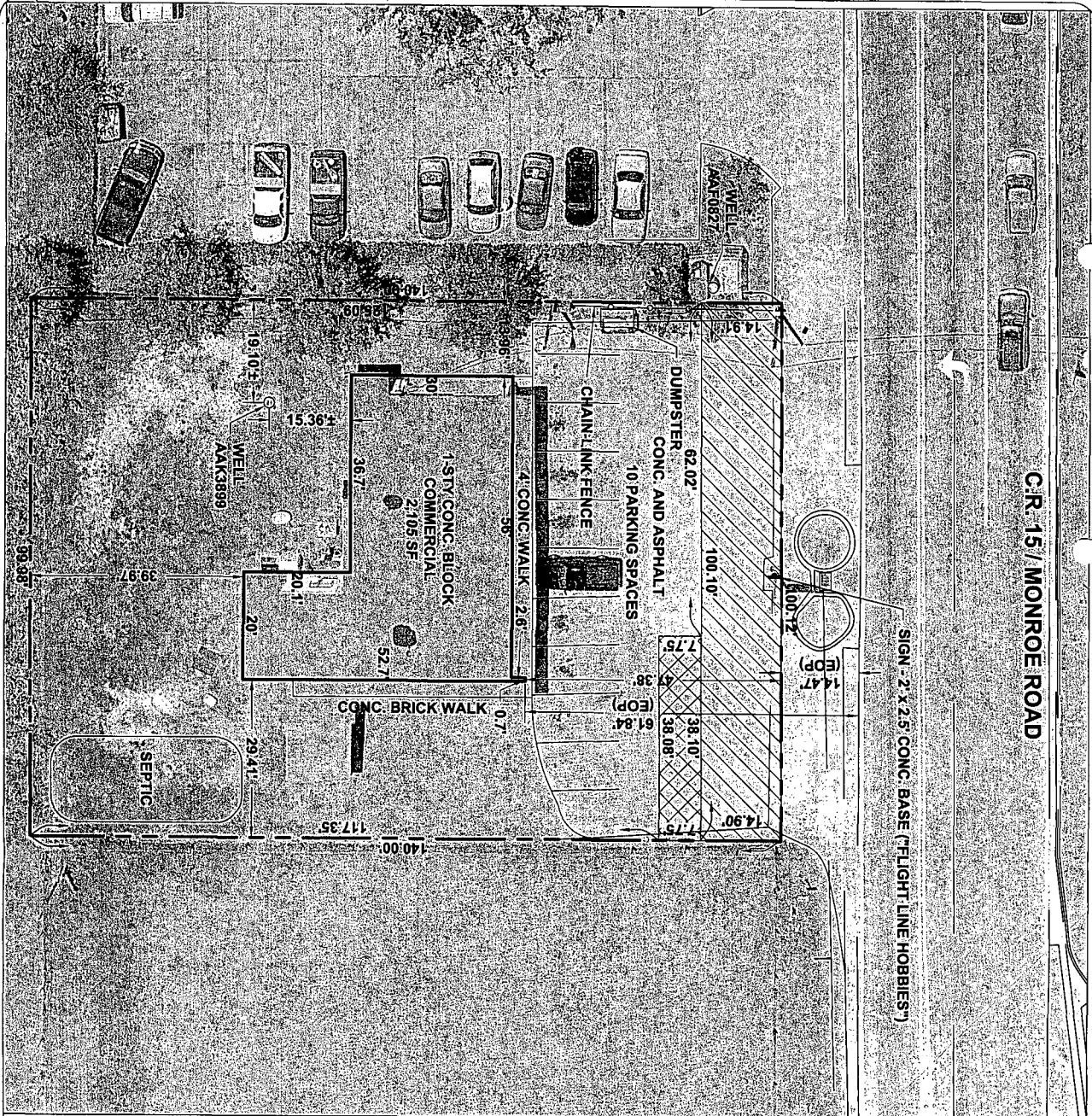
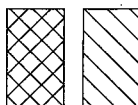


EXHIBIT A



PARENT TRACT
 AREA OF TAKE
 AREA OF TCE
 REMAINDER TRACT
 PROPERTY LINE
 AREA OF TAKE
 (PARCEL 103)
 AREA OF TCE
 (PARCEL 703)



10 0 10 20
 SCALE Feet



EXHIBIT B

PARENT TRACT : WITH TAKING SHOWN

PARCEL 103/703
 C.R. 15 / MONROE ROAD
 SEMINOLE CO., FLORIDA

BLDG.	ROP	SETBACK	PHP	8/24/06
SCALE	AS SHOWN			
DRAWN	PHP	APL		
CHECKED	DCD	APL		

SHEET 2
 PROJECT NUMBER
 A060352.00
 FILE NAME: par103-703.dwg

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